

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ENCOMPASS INSURANCE COMPANY OF)
MASSACHUSETTS,)
Plaintiff,)
v.)
JOSEPH D. GIAMPA, FREDERICK T.) Case No. 05-11693 RCL
GIAMPA, ADVANCED SPINE CENTERS, INC.)
d/b/a FIRST SPINE REHAB, FUTURE)
MANAGEMENT CORPORATION, FUTURE)
MANAGEMENT BUSINESS TRUST, EDWARD)
KENNEDY, BRIAN J. CULLINEY, D.C. and)
JENNIFER MCCONNELL, D.C.,)
Defendants.)

)

**DEFENDANTS' JOINT MOTION TO DISMISS
PLAINTIFF'S SECOND AMENDED COMPLAINT**

Pursuant to Fed. R. Civ. P. 12(b)(6) and 9(b), Defendants respectfully move that this Honorable Court dismiss with prejudice as against each of them Count I (Violation of 18 U.S.C. § 1962(c)), Count II (Violation of 18 U.S.C. § 1962(c) – Innocent Victim Enterprise), Count III (Violation of 18 U.S.C. § 1962(d)), Count V (Common Law Conspiracy) and VI (Common Law Fraud) of Plaintiff's Second Amended Complaint for the reason that Plaintiff has, yet again, failed to remedy its failure to plead fraud, conspiracy to commit fraud, a substantive RICO violation, or conspiracy to violate RICO, with particularity.

In support of this motion, Defendants rely upon their accompanying Memorandum of Law and incorporate by reference the arguments contained in Defendants' motions to dismiss Plaintiff's First Amended Complaint.

Respectfully Submitted,
Joseph D. Giampa, Frederick T. Giampa,
Advanced Spine Centers, Inc. d/b/a First
Spine, and Future Management
Corporation
By their Attorneys,

/s/ Matthew J. Conroy

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Respectfully Submitted
Brian Culliney and Jennifer McConnell
By their Attorney,

/s/ Thomas M. Ciampa

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Respectfully Submitted
Edward Kennedy
By his Attorneys,

/s/ Jeffrey Phillips

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Certificate of Service

I hereby certify that a true copy of the above document filed through the ECF system pursuant to Local Rule 5.4 was sent on this 25th day of August, 2006, electronically and by first-class mail to the attorney of record for each other party.

____/s/ Thomas M. Ciampa____